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1NC

I value **Morality**. Epistemology comes before all other ethical foundations because labeling things moral or immoral is just a function of our knowledge. We need to know *how* we know what right and wrong are before we can pick the best definition.

**And**, a priori reasoning is impossible so the only epistemologically sound basis for Morality is experience. **Schwartz**:[[1]](#footnote-1)

The empirical support for the fundamental principle of empiricism is diffuse but salient. Our common empirical experience and experimental psychology offer evidence that humans do not have any capacity to garner knowledge except by empirical sources. The fact is that we believe that there is no source of knowledge, information, or evidence apart from observation, empirical scientific investigations, and our sensory experience of the world, and we believe this on the basis of our empirical a posteriori experiences and our general empirical view of how things work. For example, we believe on empirical evidence that humans are continuous with the rest of nature and that we rely like other animals on our senses to tell us how things are. If humans are more successful than other animals, it is not because we possess special non-experiential ways of knowing, but because we are better at cooperating, collating, and inferring. In particular we do not have any capacity for substantive a priori knowledge. There is no known mechanism by which such knowledge would be made possible. This is an empirical claim.

**Next**, all humans experience the badness of pain and the goodness of pleasure. **Nagel**:[[2]](#footnote-2)

I shall defend the unsurprising claim that **sensory pleasure is good and pain bad, no matter whose they are.** The point of the exercise is to see how the pressures of objectification operate in a simple case. Physical pleasure and pain do not usually depend on activities or desires which themselves raise questions of justification and value. They are just [is a] sensory experiences in relation to which we are fairly passive, but toward which we feel involuntary desire or aversion. Almost everyone takes the avoidance of his own pain and the promotion of his own pleasure as subjective reasons for action in a fairly simple way; they are not back up by any further reasons. On the other hand if someone pursues pain or avoids pleasure, either it as a means to some end or it is backed up by dark reasons like guilt or sexual masochism. What sort of general value, if any, ought to be assigned to pleasure and pain when we consider these facts from an objective standpoint? What kind of judgment can we reasonably make about these things when we view them in abstraction from who we are? We can begin by asking why there is no plausibility in the zero position, that pleasure and pain have no value of any kind that can be objectively recognized. That would mean that I have no reason to take aspirin for a severe headache, however I may in fact be motivated; and that looking at it from outside, you couldn't even say that someone had a reason not to put his hand on a hot stove, just because of the pain. Try looking at it from the outside and see whether you can manage to withhold that judgment. If the idea of objective practical reason makes any sense at all, so that there is some judgment to withhold, it does not seem possible. If the general arguments against the reality of objective reasons are no good, then it is at least possible that I have a reason, and not just an inclination, to refrain from putting my hand on a hot stove. But given the possibility, it seems meaningless to deny that this is so. Oddly enough, however, we can think of a story that would go with such a denial. It might be suggested that the aversion to pain is a useful phobia—having nothing to do with the intrinsic undesirability of pain itself—which helps us avoid or escape the injuries that are signaled by pain. (The same type of purely instrumental value might be ascribed to sensory pleasure: the pleasures of food, drink, and sex might be regarded as having no value in themselves, though our natural attraction to them assists survival and reproduction.) There would then be nothing wrong with pain in itself, and someone who was never motivated deliberately to do anything just because he knew it would reduce or avoid pain would have nothing the matter with him. He would still have involuntary avoidance reactions, otherwise it would be hard to say that he felt pain at all. And he would be motivated to reduce pain for other reasons—because it was an effective way to avoid the danger being signaled, or because interfered with some physical or mental activity that was important to him. He just wouldn't regard the pain as itself something he had any reason to avoid, even though he hated the feeling just as much as the rest of us. (And of course he wouldn't be able to justify the avoidance of pain in the way that we customarily justify avoiding what we hate without reason—that is, on the ground that even an irrational hatred makes its object very unpleasant!) There is nothing self-contradictory in this proposal, but it seems nevertheless insane. Without some positive reason to think there is nothing in itself good or bad about having an experience you intensely like or dislike, we can't seriously regard the common impression to the contrary as a collective illusion. Such things are at least good or bad for us, if anything is. What seems to be going on here is that we cannot from an objective standpoint withhold a certain kind of endorsement of the most direct and immediate subjective value judgments we make concerning the contents of our own consciousness. We regard ourselves as too close to those things to be mistaken in our immediate, nonideological evaluative impressions. No objective view we can attain could possibly overrule our subjective authority in such cases. There can be no reason to reject the appearances here.

Thus, because each agent values their own pleasure, they must also value the pleasure of others. Sayre-McCord:[[3]](#footnote-3)

According to the second argument, the evaluative starting point is again each person thinking "my own happiness is valuable," but this fact about each person is taken as evidence, with respect to each bit of happiness that is valued, that that bit is valuable. Each person is seen as ha[s]ving reason to think that the happiness she enjoys is valuable, and reason to think of others -- given that they are in a parallel situation with respect to the happiness they enjoy -- that each person's happiness is such that there is the same evidence available to each for the value of the happiness that another person enjoys as there is for the value of one's own happiness. If happiness is such that every piece of it is desired by someone, then it seems as if, in taking ourselves to have reason to see the bit we value as valuable, we are committed to acknowledging the value of all the rest.

**Therefore**, since we have no non-arbitrary reason to value our own pleasure over the pleasure of others, **the standard is maximizing expected wellbeing.** Prefer this standard because the act-omission distinction doesn’t exist—every inaction is an action itself, so we’re equally responsible for omissions. **Rachels**:[[4]](#footnote-4)

So what is the difference between causing and allowing? What real difference is marked by those words? The most obvious ways of attempting to draw the distinction won’t work. For example, suppose we say it is the difference between action and inaction--when we cause an outcome, we do something, but when we merely allow it to happen, we passively stand by and do nothing. This won’t work because, when we allow something to happen, we do perform at least one act: the act of allowing it to happen. The problem is that the distinction between doing something and not doing something is relative to the specification of what is or is not done--if I allow someone to die, I do not save him, but I do let him die. It is tempting to say the difference between action and inaction is the difference between moving one’s body and not moving one’s body; but that does not help. When we allow something to happen, we are typically moving our bodies in all sorts of ways. If I allow you to die by running away, I may be moving my body very rapidly.

If there is no act-omission distinction, then we are fully complicit with any harms we allow, so actions are moral if they minimize harm.

**I contend that the use of deadly force in the resolution is a net bad under util.**

**First**, victims who use deadly force end up in jail. **Leonard**:[[5]](#footnote-5)

Numerous researchers describe gender inequities in the indictment, prosecution, and sentence determination of women who kill their abusers. McCorkel (1996) reports that, historically, women have received longer determinate sentences and have been given indeterminate sentences as well. Chesney-Lind (1995) finds that, while the dramatic increases in women’s incarceration stems from the willilngness of the criminal justice system to imprison women rather than a shift in the nature of their crimes. According to Browne (1988, p. 275), “FBI statistics indicate that fewer men are charged with first or second degree murder for killing a woman they have known than are women who kill a man they have known.” Almost without fail, abused women who kill are charged with murder or manslaughter and plead selfdefense (Ewing 1990). Ewing’s (1990, p. 580) data on 100 cases in which battered women caused the death of their partners revealed, Despite generally abundant evidence that they were severely abused by the men they killed, many if not most of these women are convicted because the circumstances surrounding their homicidal acts do not meet the requirements of current self-defense law….” Moreover, Walker (1992, p. 329) notes, Those who were Black and killed Black or White partners still were twice as likely to have been convicted of murder and sentenced to longer periods in prison than those who were Caucasian or from other minority groups. Women who were poor and less educated also appeared to have a similar bias against them in the courts. In Mann’s (1992) random sample of 114 female-perpetrated spousal homicides, over half of the offenders received prison sentences, with an average of 16 years to serve. Of the women in Browne’s (1987) study, 56 percent argued their cases on the basis of self-defense, 8 percent entered a diminished capacity or insanity plea, and 33 percent pled guilty to a lesser charge in return for leniency in sentencing, and in one case, the charges were dropped; the most common plea arrangement was voluntary manslaughter with reduced jail sentence, or several years probation. Osthoff (1991) reports that the vast majority of women accused of killing their abusive partners (72 percent to 80 percent) are convicted or accept a plea, and many receive long, harsh sentences. In her analysis of domestic homicide offenders, Mann suggests that the system may be growing tougher toward these women: “In 1979 the mean prison sentence was 4.1 years…while in 1983, the mean number of years was 10.2” (1989, Pp. 21-22).

**And,** prison is a hellhole of sexual abuse and suffering for victims. **Summer**:[[6]](#footnote-6)

**The power dynamics in prison severely disadvantage the prisoner, who is at the absolute mercy of her guards and correctional officers**, relying on them for necessities such as food and for the small privileges and luxuries such as cigarettes. Guards have unlimited access to prisoners and their living environment, including where they sleep and where they bathe. **With such an imbalance of power, the likelihood of sexual assault increases.** Sexual abuse in prison can range from forcible rape to the trading of sex for certain privileges. While the latter may seem consensual to some, **the drastic power disparity makes the idea of "consent"** almost **laughable**. In fact, all 50 states have laws that make any sexual contact between inmates and correctional officers illegal, "consensual" or not. "It's always unacceptable and illegal," says Lovisa Stannow, executive director of Stop Prisoner Rape. While guard-on-prisoner sexual assault is common, putting a number on the instances is difficult because so many assaults are unreported. As with sexual assault on the outside, many survivors in prison are ashamed and embarrassed to come forward, fear that their claim will be hard to prove or fear that their attackers will retaliate. In prison the fear of retaliation is heightened, as the prisoner continues to live with her attacker controlling her daily life. And inmates who report a sexual assault are frequently put in segregated isolation, ostensibly to protect them from retaliation, but this isolation can be emotionally and physically draining, and well, terribly isolating. And many women in prison have been sexually abused in the past, before they were incarcerated, or are accustomed to using sex to get what they want, on the inside or the outside. "A lot of women don't view it as abuse," says Deborah Golden, staff attorney at the D.C. Prisoners' Project of the Washington Lawers' Committee for Civil Rights and Urban Affairs. About 80 percent of women inmates have already experienced some kind of sexual or physical abuse before prison, says Sarah From, director of public policy and communications at the Women's Prison Association. Despite the widespread underreporting, some statistics exist. First, there are about 200,000 women incarcerated in the U.S. (in federal, state, local and immigration detention settings), a number that is growing exponentially and that makes up about 10 percent of the total prison population. Amnesty International reports that in 2004, a total of 2,298 allegations of staff sexual misconduct against both male and female inmates were made, and more than half of these cases involved women as victims, a much higher percentage than the 10 percent that women comprise of the total prison population. It can vary from institution to institution, but in the worst prison facilities, **one in four female inmates are sexually abused in prison**, says Stannow.

**And**, prison outweighs domestic violence:

**A. Magnitude**- Domestic violence only causes serious injury in a small fraction of cases. **Milgram**:[[7]](#footnote-7)

Highlights of the 2008 domestic violence statistics are listed below: • There were 70,613 domestic violence offenses reported by the police in 2008, a 2 percent decrease compared to the 71,901 reported in 2007. • Murders increased 50 percent in 2008 (57) when compared to 2007 (38). • Assaults accounted for 43 percent (30,429) and harassment accounted for 43 percent (30,023) of the reported offenses in 2008. • Arrests were made in 31 percent (21,665) of the offenses reported for 2008, a decrease of 3 percent when compared to arrests made in 2007. • The most frequent day of domestic violence occurrences was Sunday (12,397). • For the twenty-sixth consecutive year, the most frequent hours of domestic violence incidents were between 8:00 p.m. and midnight, when 26 percent (18,679) of the offenses were reported. • Children were involved or present during 33 percent of all domestic violence offenses occurring in 2008. Specifically, 5 percent (3,519) were involved and 28 percent (19,583) were present. • Wives were the victims in 19 percent (13,637) and ex-wives were the victims in 3 percent (2,406) of the reported domestic violence offenses in 2008. Overall, females were victims in 76 percent (53,810) of all domestic violence offenses. • The number of domestic violence complaints that had prior court orders issued against the offender decreased from 15,481 in 2007 to 13,872 in 2008. This is a decrease of 10 percent. • Alcohol and/or drugs were involved in 28 percent (19,691) of the reported offenses occurring in 2008. Alcohol involvement alone accounted for 25 percent (17,808) of the total domestic violence offenses reported. • Persons age 60 or over were victims in 3 percent (2,345) of all reported domestic violence offenses that occurred in 2008. Elderly were the victims in 21 percent (12) of the domestic violence murders (57). • Domestic violence does not occur at a regular frequency, but when viewed as a ratio of its occurrence to a fixed time interval, one act of domestic violence would occur every 7 minutes and 26 seconds. • Domestic violence offenses arising from a dating relationship accounted for 15 percent (10,468) of the state total. • There were 2,966 total arrests involving domestic violence restraining orders reported by police in 2008. Of these, 1,793 were arrests for violations of a restraining order only, while 1,173 were arrests for violations of a restraining order with an offense arrest. • Twenty-seven percent (19,076) of all domestic violence complaints resulted in injury. This is a decrease of 3 percent when compared to the (19,647) that occurred in 2007. • Of all the domestic violence offenses involving weapons (32,052), hands, fists, feet, etc. were used in 91 percent (29,279) of these offenses. • Domestic violence offenses involving a gun decreased 13 percent when compared to 2007. • Serious injuries were reported in 1,497 [2.1 percent of] offenses, a 4 percent increase when compared to the 1,445 reported in 2007.

**B. Prison controls the internal link**- Victims who go to jail are made to feel completely powerless and lose the ability to fend off abuse in the future. **Miller**:[[8]](#footnote-8)

Drawing on important work developed by the NCDBW (2001), Hirschel and Buzawa (2002) raised other consequences faced by women who were battered and arrested, including los[e]ing “all the rights and privileges attendant to the victim determination, such as transportation to a safe location, temporary housing in a shelter for battered persons, issuance of a restraining order, and participation in victim assistance and empowerment programs” (p. 1459). Employment may be lost, resulting in financial hardship. Women may lose custody of children and may develop a reluctance to report subsequent abuse to authorities despite a possible increase in danger from the abuser (Hirschel & Buzawa, 2002). The surreal position of being a [battered] woman who is battered who is formally processed as an offender exacerbates feelings of confusion and powerlessness; being mandated to a batterer intervention program, especially one designed for male abusers, only increases this absurdity.

**Second**,attempting to use deadly force increases the risk of victim injury because the offenders feel their dominance is threatened and use violence to reassert their control. **Wyckoff**:[[9]](#footnote-9)

With regards to the forceful behaviors, I had hypothesized that they would either lead to an increase in injury due to the offender perceiving a loss of control over the victim (instrumental violence) or a decrease in injury if the behavior was effective in reducing the victim’s suitability as a target (expressive violence). Interestingly, these behaviors were both significant predictors of injury, but not consistent in regards to direction. Forceful physical self-protective behaviors were associated with an increase in minor injury. This finding is partially supported with the results of Bachman and Carmody’s (1994) analysis of domestic violence assaults which found that forceful selfprotective behaviors in general increased the probability of injury, but not the probability of needing medical treatment. Also, Bachman et al. (2002) [also] found that physical behaviors were associated with the probability of sustaining and injury in intimate partner assaults. Interpreted in line with my hypotheses, the results of the current study suggest that forceful physical behaviors pose a threat to the established control in the relationship and therefore illicit a stronger attack from the offender. An argument could be made for this interpretation using Carmody and Williams’s (1987) study which explored the perceptions of different sanctions for abusive and nonabusive men. Abusive men were more likely to perceive that their victims (their wives) would use retaliatory violence against them. That perceived sanction may also equate[s] to a perceived lack of control over the significant other and therefore a greater probability of using violence to assert dominance.

\*CONTENTION FRONTLINES\*

AT-DEATH GOOD BECAUSE PEOPLE ARE UNHAPPY

1. Empirically, people are happy to be alive. **Diener et al**:[[10]](#footnote-10)

Meyers and Diener {1995) asked “'Who is happy?'" but examined the question of who is more and who is less happy In fact, most people report a positive level of subjective well-being {SWB), and say that they are satisfied with domains such as marriage, work, and leisure People in disadvantaged groups on average report positive well-being, and measurement methods in addition to self-report indicate that most people's affect IS primarily pleasant Cross-national data suggest that there is a positive level of SWB throughout the world, with the possible exception of very poor societies In 86% of the 43 nations for which nationally representative samples are available mean SWB response was above neutral Several hypothese explain the positive levels of SWB are discussed Many thinkers charactenze life as a tragedy Sophocles (1959) wrote, "Not to be bom surpasses thought and speech The second best is to have seen the light and then to go back quickly whence we came" (p 134) Many behavioral scientists also believe that humans are predominantly dissatisfied and unhappy Extensive evidence, however, suggests otherwise Subjective well-being (SWB), referred to colloquially as "happiness," is a person's evaluation of his or her life This evaluation is both cognitive (e g , life satisfaction judgments) and affective (pleasant and unpleasant emotional reactions) Most life satisfaction scales have a neutral point at which the person reports equal amounts of satisfaction and dissatisfaction Above this point, response alternatives are labeled with varying degrees of satisfaction, and below this point, the options indicate dissatisfaction For moods and emotions, the neutral point refers to that place at which the individual expenences equal amounts of pleasant and unpleasant affect A poshedonic level refers to expenencing positive affect more of the time than negative affect EVIDENCE FOR POSITIVE SWB In every U S national survey, most people have reported a positive level of SWB For example, Gunn, Veroff, and Feld (1960) found that 89% of Americans placed themselves in the 'very happy" or "pretty happy" groups, only 11% said they were "not too happy " Andrews and Withey (1976) conducted nationally representative surveys and found that about 84% of respondents scored above neutral, with only about 5% sconng below neutral In 1988, Andrews (1991) found that all socioeconomtc groups, and both whites and Afncan Amencans, scored well above the neutral point on life satisfaction Table 1 shows the results of SWB surveys in the United States from 1946 to 1989 (Veenhoven, 1993) The data reveal a positive level of global SWB throughout this penod Surveys also show that respondents say they are satisfied with specific domains such as health, finances, and fnendships (Andrews & Withey, 1976, Campbell, Converse, & Rodgers, 1976) Table 1 also presents SWB responses of the French and Japanese In those countnes, too, there was not a single year when scores dropped below the midpoint of the scale Figure 1 provides a global perspective, presenting the results of almost 1,000 representative surveys of SWB summanzed by Veenhoven (1993) When there was more than one survey in a nation, we computed the mean Only in two poor nations, India and the Dominican Republic, did the mean report fall below the neutral point of the SWB scale Veenhoven" s rating scale extends from 0 {most unhappy) to 10 {most happy) Most nations were above the neutral point, including less westernized nations such as Brazil, Egypt Japan South Korea, Mexico, and Thailand, 86% of the nations fell in the positive range' Yet most people are not elated most of the time—they are just mildly happy (Diener, Fujita, & Sandvik, 1994) The majonty of disadvantaged individuals also report positive levels of well-being For example, Andrews and Withey (1976) found that people in the lowest income group reponed positive SWB Persons with disabilities ranging from quadnplegia to blindness also report positive well-being (e g , Cameron, Titus, Kostin, & Kostin, 1973, Chwalisz, Diener, & Gallagher, 1988) Allman (1990) showed that the positive reports of SWB by individuals who use wheelchairs are supported by other measures of well-being such as the reports of fnends and a recall measure (disabled subjects recalled more positive than negative events in their lives) Silver (1982) found that respondents with spinal cord injuries were very unhappy immediately following their trauma, but by the 3rd week after their accidents, happiness was the strongest emotion for 58% of the subjects Hellmich (1995) reported that of individuals with extreme quadnplegid, 93% repon being glad to be alive, and 84% consider their life is average or above average.

2. Even if life is on balance bad, existence is always preferable to non-existence because it allows us to experience the possibility of difference. **Brueckner and Fischer**:[[11]](#footnote-11)

Perhaps it is this temporal asymmetry in our attitudes toward certain goods, and not the asymmetry in our attitudes toward bads, which explains our asymmetric attitudes toward prenatal and posthumous nonexistence. Death is a bad insofar as it is a deprivation of the good things in life (some of which, let us suppose, are "experienced as good" by the individual). If death occurs in the future, then it is a deprivation of something to which we look forward and about which we care - future experienced goods. But prenatal nonexistence is a deprivation of past experienced goods, goods to which we are indifferent. Death deprives us of something we care about, whereas prenatal nonexistence deprives us of something to which we are indifferent. Thus we can defend Nagel's account of the badness of death by explaining the asymmetry in our attitudes toward prenatal and posthumous nonexistence. This explanation makes use of a principle clearly related to (but dif- ferent from) Parfit's principle concerning the asymmetry in our attitudes toward past and future experienced bads. If we have asymmetric attitudes toward past and future experienced goods, then death is a bad thing in a way in which prenatal nonexistence is not.14

AT-FIAT SOLVES ABUSE/PRISON/ANY LINK

1. This is fiat abuse that wasn’t justified in the AC so you shouldn’t allow it. I wouldn’t have read the argument if I knew the aff would theoretically exclude it, so you can’t allow the advocacy shift absent an argument in the text of the AC for why it’s justified.

2. The resolution is a value judgment concerning the moral permissibility of the action AS IT OCCURS IN THE STATUS QUO. There’s no action being taken because the resolution says “is” morally permissible, not, “would be” morally permissible, meaning affirming doesn’t fiat a world, it makes a descriptive judgment.

3. The resolution says morally permissible, not legally permissible. Morality isn’t a concrete force, but rather a normative judgment that guides our conscious, so there wouldn’t be any real world change even if the aff could fiat the action; meaning fiat doesn’t solve the link.

AT-WYCKOFF STUDY≠DEADLY FORCE

1. Wyckoff’s study includes deadly force. The exact rhetoric of the control variable is “forceful physical self-protective behaviors.” Deadly force meets this because it is force aimed in self-defense.

2. Deadly force isn’t just killing—it’s also serious bodily injury, which very clearly meets the description in Wyckoff’s study because it is by definition self-protective force. So, the evidence still applies to the majority of the aff advocacy.

3. If there’s any doubt about the overlap between Wyckoff’s study and deadly force, the Wyckoff evidence is very good on the question that any attempt by victims to retaliate against their abusers creates a perceived lack of control for the abusers and causes them to lash out and reassert their dominance. So even if the study’s control variable isn’t specific enough to the res, the analytic still applies.

AT-EMPOWERMENT

1. Empirically denied—victims are more psychologically depressed and unhappy after they kill. **Jones**:[[12]](#footnote-12)

**Women who kill their battering husbands** or lovers **almost always express great remorse and sorrow. They say they still love the dead man and grieve at his loss. Some feel so guilty and depressed that they try to take their own lives**, or say that they would if they did not have children to take care for.

2. Prison controls the internal link—going to prison puts victims on the skirts of society and makes them lose their family and friends, destroying the possibility for empowerment. It’s tough to feel strong when you’re all alone. [That’s the Santos evidence read on prison weighing]

3. There’s literally no impact to this argument. Being empowered does nothing for the victim’s actual wellbeing. If they go to prison it doesn’t matter how empowered they feel, they can’t do anything about it because they’re locked up.

4. Wyckoff controls the internal link—victims only feel empowered if they are actually successful in fending off their abuser. But since deadly force is counterproductive victims will feel even more psychologically helpless and disempowered.

5. Victims who go to jail are made to feel completely powerless and lose the ability to fend off abuse in the future. **Miller**:[[13]](#footnote-13)

Drawing on important work developed by the NCDBW (2001), Hirschel and Buzawa (2002) raised other consequences faced by women who were battered and arrested, including los[e]ing “all the rights and privileges attendant to the victim determination, such as transportation to a safe location, temporary housing in a shelter for battered persons, issuance of a restraining order, and participation in victim assistance and empowerment programs” (p. 1459). Employment may be lost, resulting in financial hardship. Women may lose custody of children and may develop a reluctance to report subsequent abuse to authorities despite a possible increase in danger from the abuser (Hirschel & Buzawa, 2002). The surreal position of being a [battered] woman who is battered who is formally processed as an offender exacerbates feelings of confusion and powerlessness; being mandated to a batterer intervention program, especially one designed for male abusers, only increases this absurdity.

AT-DETERRENCE

1. Their evidence identifies correlation, not causation. Just because murder rates decrease in years where deadly force is used doesn’t prove deadly force is the cause of that decrease in murder.

2. Turn-on balance justifying deadly force increases rampant killings. **Rosen**:[[14]](#footnote-14)

There are a number of reasons why self-help is contrary to the interests of modern society. Reliance on self-help tends to diminish respect for the rule of law. Self-help in the form of self-defense carries the additional problem of increasing the quantum of violence in an already violent society. More troublesome is the possibility that the more widespread resort to self-help becomes, the more often innocent people may be killed erroneously. It is troublesome even when a person who is guilty of a crime becomes the victim of proper self-help. The constant decline in the number of capital crimes throughout American history attests to the general view that only the most vicious of intentional killers deserve to die for their deeds. 220 We cling to the hope that criminals can be reformed, or at least deterred, if only they are subjected to incarceration, institutionalization, or community corrections. Most persons killed in self-defense would not have been eligible for capital punishment if duly convicted of their threatened crimes.221 This is particularly true of many of the abusive husbands in battered woman's defense cases.

3. The lack of consistent murder rates for domestic violence cases makes deterrence unverifiable. **Jones**:[[15]](#footnote-15)

Graph five, though **domestic violence** specific, **does not show the** same **shift** as the others previously mentioned. Accordingly, **during** the 1992-1994 **reporting years**, there was a significant decrease in the number of murders statewide. **The data shows no consistency over the years, but rather fluctuates without any specific pattern or noticeable trend.** In essence, data from this graph may indicate that even in light of other factors, which may have influenced domestic violence data over the years, **there was no obvious predictors to indicate either an increase or decrease in the number of murders for victims of abuse.** Data shown for all four graphs which were not specific to domestic violence, demonstrated no significant changes over the years. All the graphs are similar in their presentation and therefore show that **normal crime rates were not influenced during any particular years.**

4. There’s zero deterrent effect because deadly force isn’t used to give victims power it’s used as an instrumental act to get out of abuse in the moment. Miller:[[16]](#footnote-16)

Consistent with the majority of research findings, the female offenders observed demonstrate that most women who use[d] violence do so to escape or stop abuse. We find support for three of four violence categories as introduced by Johnson (1995, 2000) and for the three categories distinguished by the Duluth manual (Hamlett, 1998). Only 5 of the 95 women in 6 months of (often triweekly) treatment group meetings exhibited preemptive, aggressive violence, the category of violence most similar to Johnson’s (1995, 2000) mutual violent control type. The remaining 90 women used socalled violence that cannot be characterized as battering, nor could any woman’s violence be characterized as intimate terrorism (Johnson 1995, 2000). According to their stories, the women never achieved power or control over their partners or former partners, nor did the men change their behavior as a result of women’s use of intimidation. Women’s use of violence was either an instrumental act that was primarily used to defend themselves or their children (i.e., violent resistance) or an expressive act that conveyed frustration with an abusive situation that seemed beyond their control. There were no examples of Johnson’s final violence category, common couple violence, exhibited in this data; perhaps minor violence unconnected to control did not reach the new arrest threshold under proarrest policies. Although the program facilitator acknowledged women’s violence that precipitated their arrests, anger and use of force were explored in a much larger context, with practical alternatives and coping strategies emphasized.

AT-ZIPURSKY

1. Zipursky in his argument is talking about what would happen if deadly force were legally permitted, not if it were morally permitted. Aff doesn’t get legal fiat because morality exists only in conscience, so at best victims would act upon the maxim of the res without it being codified into a law.

2. Zipursky is an empirical claim without an empirical warrant. There is zero evidence of alternatives being developed in the past so no reason to believe it will happen in the future.

3. Zipursky is a psychological claim without a psychological warrant. He assumes that the abuser’s violence can be reduced by their rationalization that victims could kill them if given the opportunity, but that’s a false assumption. The Wyckoff evidence is very good on the question of abuser rationale—abusers want to control their victims, so lashing out with aggressive, self-protective behaviors makes the aggressor escalate the violence to reassert their dominance.

4. Turn-If victims started killing their abusers all over the place, society would up the consequences and just increase the punishment because the criminal justice system is growing tougher and tougher toward victims—that’s the Leonard evidence. Zipursky assumes a leniency on the part of society that is empirically denied.

5. Turn-The internal link of Zipursky relies on deadly force actually working—otherwise society wouldn’t take notice and start developing alternatives. But, Wyckoff denies that internal link because trying to use deadly force against the abuser just escalates the abuse.

6. Empirically denied—using deadly force against the abuser has no effect in reducing future abuse because victim’s violence is an instrumental act, rather than one that can change the abuser’s pattern of violence. Miller:[[17]](#footnote-17)

Consistent with the majority of research findings, the female offenders observed demonstrate that most women who use[d] violence do so to escape or stop abuse. We find support for three of four violence categories as introduced by Johnson (1995, 2000) and for the three categories distinguished by the Duluth manual (Hamlett, 1998). Only 5 of the 95 women in 6 months of (often triweekly) treatment group meetings exhibited preemptive, aggressive violence, the category of violence most similar to Johnson’s (1995, 2000) mutual violent control type. The remaining 90 women used socalled violence that cannot be characterized as battering, nor could any woman’s violence be characterized as intimate terrorism (Johnson 1995, 2000). According to their stories, the women never achieved power or control over their partners or former partners, nor did the men change their behavior as a result of women’s use of intimidation. Women’s use of violence was either an instrumental act that was primarily used to defend themselves or their children (i.e., violent resistance) or an expressive act that conveyed frustration with an abusive situation that seemed beyond their control. There were no examples of Johnson’s final violence category, common couple violence, exhibited in this data; perhaps minor violence unconnected to control did not reach the new arrest threshold under proarrest policies. Although the program facilitator acknowledged women’s violence that precipitated their arrests, anger and use of force were explored in a much larger context, with practical alternatives and coping strategies emphasized.

7. Turn-On balance deadly force harms society as a whole. **Rosen**:[[18]](#footnote-18)

There are a number of reasons why self-help is contrary to the interests of modern society. Reliance on self-help tends to diminish respect for the rule of law. Self-help in the form of self-defense carries the additional problem of increasing the quantum of violence in an already violent society. More troublesome is the possibility that the more widespread resort to self-help becomes, the more often innocent people may be killed erroneously. It is troublesome even when a person who is guilty of a crime becomes the victim of proper self-help. The constant decline in the number of capital crimes throughout American history attests to the general view that only the most vicious of intentional killers deserve to die for their deeds. 220 We cling to the hope that criminals can be reformed, or at least deterred, if only they are subjected to incarceration, institutionalization, or community corrections. Most persons killed in self-defense would not have been eligible for capital punishment if duly convicted of their threatened crimes.221 This is particularly true of many of the abusive husbands in battered woman's defense cases.

AT-SOUTHWICK (JUSTIFIABLE HOMICIDE DETERS)

1. No link—Southwick is talking about justifiable homicide, of which deadly force in the res is not. A. The res says deliberate, which implies a conscious decision to kill, punishable under the law with a minimum of manslaughter. B. The Milgram evidence indicates that domestic violence is rarely deadly, so deadly force is unproportional and therefore violates the law.

2. Southwick is correlation not causation. Just because murders dropped in years where civilian homicides occurred, doesn’t prove that deadly force is the causal reason for that drop in murder.

3. Southwick relies on an internal link that deadly force will actually work—victims need to actually commit the homicide in order to deter it. But, Wyckoff denies that internal link because trying to use deadly force against the abuser only increases the abuse.

4. Southwick is not even talking about victims of domestic violence. There’s no analysis for why this stat can apply to them—alternate causes and completely different samples make such a prediction impossible.

5. Turn- On balance deadly force harms society as a whole. **Rosen**:[[19]](#footnote-19)

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AT-DEADLY FORCE🡪PRISON REFORM

1. No brink—only a small number of victims could potentially use deadly force so their actions would not influence the criminal justice system.

2. No uniqueness—victims use deadly force in the status quo and the system hasn’t pushed for prison reform, so their impact’s empirically denied.

3. The internal link relies on deadly force being successful at killing the abuser. Otherwise the criminal justice system wouldn’t take notice because aggressors wouldn’t be dying. But, Wyckoff denies that internal link because it indicates that deadly force only increases abuser retaliation and doesn’t actually kill them.

4. Even if you grant them their internal link to its fullest, prison reform won’t happen. Empirically nothing changes. **Garside**:[[20]](#footnote-20)

What is missing as all this manoeuvring continues is a coherent vision for what might be involved in genuine prison reform, and how this might be achieved. A vibrant reform sector, free from financial dependence on government, focused on the evidence base, confident about articulating a vision for change, unafraid of challenging ministers and their advisers, is what is needed to break the logjam. That so many reformists invested so much in defending and championing a minor and uninspiring bureaucratic tweak to sentencing policy says much about the state of the current debate, and signals how much needs to change.

AT-EVIDENCE IS US SPECIFIC

1. Nonunique-The AC evidence is also specific to the US so there’s no impact to this argument.

2. The NC evidence applies to victims using deadly force in general—some of the empirics are based on studies in the US, but equally applicable to all situations of the res.

3. Most debates assume the US because the majority of the evidence is US based. The fact that US specific is the assumption going into round means that absent an argument in the AC for why the resolution can’t be discussed in specific contexts means you grant the US empirics.

4 They haven’t made arguments for why the evidence should be ignored. So, on a theoretical level, the resolution should be U.S. specific:

A. The vast majority of the topic lit discusses victims in the US—specifying is the only way for the neg to garner stable DAs based in real-world empirics. Key to fairness because otherwise can’t disprove any AC arguments with factual basis.

B. Forcing neg to read evidence from all countries kills strategy because I have to divide my time among evidence that applies to all contexts. Kills fairness because I have to spend infinite more time for each individual argument I make rooted in empirics.

C. We live in the US so studying the merits of social policy in our social location increases clash and valuable discussion that can actually be applicable.

AT-THOMPSON (SELF-PROTECTIVE BEHAVIOR WORKS)

1. Thompson concedes his study can’t distinguish between different forms of self-protective resistance. Studies that distinguish between forceful and non-forceful resistance conclude negative. **Thompson et al**:[[21]](#footnote-21)

There were several study limitations that should be acknowledged. Although the survey queries respondents about both forceful and nonforceful resistance, we did not examine these behaviors separately. Data from the redesigned NCVS do not allow researchers to examine different forms of self-protective behaviors separately while taking into account temporal sequencing. The reason for this is the way in which the questions were asked in the NCVS. Specifically, respondents were asked what behaviors they had engaged in, and they could mark all that applied. Respondents who were injured were then asked whether these actions were taken before, after, or at the same time as the injury. Again, they could mark all that applied. It is not possible to know to which self-protective action(s) a respondent was referring when answering the temporal sequencing questions. This limitation is unfortunate because prior studies have found that the type of selfprotective behavior used (i.e., forceful, nonforceful) may differentially affect injury risk (4, 6, 14). For example, Marchbanks et al. (6) found that female victims of attempted or completed rape who engaged only in nonforceful resistance did not increase their risk of injury, but rape victims who used only forceful resistance or both forceful and nonforceful resistance were at increased risk of injury. On the other hand, research on female victims of physical assault perpetrated by intimate partners has indicated that both types of resistance lead to an increased risk of injury (4).

That’s a reason to prefer the Wyckoff study because Wyckoff distinguished between forceful self-protection and non-forceful self-protection and concluded that forceful protection alone was counterproductive.

2. Thompson concedes his study can’t determine causality. Alt causes make Thompson’s study terrible. **Thompson et al**:[[22]](#footnote-22)

Another study limitation is that our data do not inform us about the direction of causality. Although we found that self-protective behaviors were associated with a lower risk of injury, we do not know whether the self-protective action itself reduced the likelihood of injury. A victim's perceived risk of injury may influence her decision to engage in self-protective actions. Perhaps women in less-threatening circumstances are more willing to engage in self-protective behaviors, whereas women who fear that injury or death is imminent are more likely to cooperate with the offender. If so, this could explain the observed inverse association between injury and resistance.

That’s a reason to prefer the Wyckoff evidence because it identifies a causal warrant—offenders see forceful resistance as a threat to their dominance and use violence to reassert their control.

3. Thompson’s sample includes people that aren’t victims of domestic violence—the sample starts with females as young as 12 years old. It also excludes some of the more severe forms of assaults like sexual assaults. **Thompson et al**:[[23]](#footnote-23)

The sample for this study consisted of 3,206 incidents occurring between 1992 and 1995 in which females aged 12 years and older reported a completed or attempted physical assault, i.e., aggravated or simple, perpetrated by a lone male assailant at any time in the 6 months prior to the interview. A physical assault is defined in the NCVS as "an unlawful physical attack or threat of attack." The physical assault category in the NCVS excludes sexual assaults and robberies (2). Consistent with the NCVS categories, sexual assaults and robberies were excluded from this study (n = 907). We also excluded assaults perpetrated by females (n = 1,444). Series incidents, defined by NCVS as six or more similar, but distinct, events that the respondent is unable to describe separately in detail, were included (n = 247). Victims of series incidents were asked to describe the most recent incident.

4. Thompson’s study concedes that self-protective behaviors are only effective in stopping minor injury. The study’s results on major injury are not statistically significant. **Thompson et al**:[[24]](#footnote-24)

A woman's use of self-protective behavior significantly reduced her risk of incurring a minor injury (adjusted odds ratio (AOR) = 0.42, 95 percent confidence interval (CI): 0.30, 0.57). Although the use of self-protective behaviors also reduced the odds that a woman incurred a severe injury, this was not statistically significant (AOR = 0.64, 95 percent CI: 0.29, 1.38).

5. Thompson’s study proves deadly force is counterproductive in a significant number of cases. **Thompson et al**:[[25]](#footnote-25)

Conversely, only 21 percent of the women who engaged in some form of self-protective behavior reported that their behavior made the situation worse. Of these women, 15 percent reported that the behaviors) led to injury or greater injury, 1 percent reported that the behavior(s) resulted in other people getting hurt, 86 percent reported that the behavior(s) made the offender angrier, and 6 percent reported that the action made the situation worse in some other way.

PREFER WYCKOFF STUDY WEIGHING

1. Only this study can determine causality by avoiding measurement error within the temporal sequence. **Wyckoff**:[[26]](#footnote-26)

Most previous studies have suffered from and acknowledged the limitation of establishing causality between self-protective behaviors and injury. A major limitation with the current literature is that the datasets commonly used (for example, the NCVS prior to 1992), cannot determine the temporal sequence of events in order to decisively say whether the injury occurred after the self-protective behavior, during, or before. Therefore, it could be that the self-protective behavior was used in response to an injury sustained instead of a preemptive action before injury. The inclusion of behaviors that occur after injury results in false positives for injury. When this occurs, causality cannot be established because it is uncertain whether the independent variable actually preceded the dependent variable. Fisher et al. (2007) suggest that qualitative data may be able to help disentangle whether injury occurs before or after the self-protective behavior to effectively examine the temporal sequence of events leading up to injury. To this end, this study uses the qualitative interviews provided by women regarding each incident to accurately model the proper temporal sequencing.

2. This study is the only one that avoids marginalizing sample groups. **Wyckoff**:[[27]](#footnote-27)

Previous studies have relied on nationally representative surveys or clinical samples to assess the impact of self-protective behaviors on injury. However, these samples are not representative of all victims of domestic violence. Indeed, there are marginalized populations that are not captured in nationally representative surveys and are unlikely to be captured in clinical samples. Incarcerated women constitute a portion of the population that is normally omitted from nationally representative surveys. To the extent that this marginalized population’s experiences of domestic violence differ from the mainstream population, [so] our understanding of intimate partner victimization is incomplete. Indeed, Dugan and Castro (2006) compared the NCVS with this current tudy’s sample using routine activities predictors as the framework for the comparisons and found that these samples differed with regards to the amount of violence they experience, the predictors of violence, and their responses to victimization. Also, Richie (1999) found that incarcerated women may experience more frequent and more severe violence than their non-incarcerated counterparts. In addition, these women may not utilize the same help seeking behaviors as other women. More specifically, they may feel apprehensive about approaching social services because of previous exposure to the criminal justice system or they may perceive the criminal justice system as unhelpful. Therefore, the strategies that these women utilize to protect themselves from injury in domestic violence situations warrant examination not only because it furthers our understanding of the predictors and effects of self-protective behaviors, but it includes a population that is likely to experience violence but may be unlikely to seek help. To overcome this limitation, this study examines the responses of incarcerated women using data from the Baltimore City Detention Center.

3. Only this study can account for the possibility of deadly force increasing retaliation because it considers the offender’s need for control in the relationship. **Wyckoff**:[[28]](#footnote-28)

As a third limitation, many studies have failed to disaggregate self-protective behaviors properly in order to examine their effects on injury. Earlier studies examined only verbal compared to physical self-protective behaviors. This ignores the possibility that behaviors that pose a threat to the offender may differ from those that are used to assuage an offender. From a feminist perspective, this fails to capture any retaliatory violence that occurs as a result of the loss of control within the relationship. Other studies have looked at forceful versus nonforceful behaviors, but this also has limitations because it collapses across verbal and physical behaviors which may be qualitatively different. Later studies have examined the different types of physical behaviors and verbal behaviors; however, there has been little consistency in typologies among researchers, ranging from two to 16 categories. Although 16 categories disaggregate behaviors to their fullest extent, it may be sacrificing efficiency by not combining similar behaviors. To this end, this study examines self-protective behaviors along two dimensions, forceful/nonforceful and physical/verbal.

PREFER LEONARD STUDY WEIGHING

Prefer Leonard’s methodology because it’s the only one with sufficient sample size. **Leonard**:[[29]](#footnote-29)

The current research is unique in its focus on convicted survivors of severe intimate violence. Studies have focused on female homicide offenders rather than on battered women who killed (Chimbos 1978, Totman 1978). Browne (1987) examined the lives and cases of 45 battered women on trial for murder whose cases had a variety of outcomes, including nonincarceration. Thus, this is the first study of its size to survey and to conduct an in-depth examination of women in prison for the death of their abusive male partners.

PRISON>DOMESTIC VIOLENCE WEIGHING

**Prison impacts outweigh domestic violence impacts:**

1. Magnitude and probability—the Summer evidence indicates that 1 in 4 women are abused in prison despite massive underreporting. In contrast, domestic violence only causes major injury in 1497 out of 70,613 cases—that’s the Milgram evidence.

2. Magnitude again—prison guarantees sexual abuse where the idea of consent is laughable and women are completely victimized—that’s the Summer evidence. Even if domestic violence is bad, there is still some love in the relationship, whereas in prison there is nothing but brutal, physical violence.

3. Strength of link—The internal link to the prison scenario has been cold conceded, whereas their link story for deadly force solving domestic violence is heavily contested. If the raw impact debate is even remotely close, default neg because at least I’m calling into question their internal link.

4. Duration-The impact of prison puts victims who kill on the outs of society for the rest of their lives. **Santos**:[[30]](#footnote-30)

Once the courts finalize a prison term, the system does not offer a mechanism through which offenders can work to reconcile with society, to redeem themselves, to earn freedom while working to restore their good citizenship. All that matters is the passing of time, frequently multiple decades for non-violent offenders convicted of selling drugs. That is the fundamental flaw of the federal prison system. Rather than encouraging offenders to work toward becoming one with the fabric of society, the federal prison system obliterates hope, and in the process, it inadvertently perpetuates failure as high recidivism rates and their accompanying expenditures confirm. Eradicating hope comes with harmful consequences for society. When offenders begin serving lengthy sentences, and the system repeatedly tells them they've "got nothin' comin'," it hardens many prisoners who would have welcomed opportunities to reform, making some susceptible to radicalization. Without hope of returning to society as contributing citizens, many in prison commit themselves further to criminal organizations, prison gangs and, sometimes, terrorist sympathizers. Instead of protecting society, the harsher system breeds a cancer that spreads out from prison boundaries to threaten communities across America.

AT-MILGRAM IS NOT REPEATED DV

1. Milgram is specific to domestic violence offenses that have been reported. Since often domestic violence goes unreported, there is a significant probability that when it is reported it has already occurred more than once and therefore repeated domestic violence.

2. Even if Milgram’s total number of domestic violence cases isn’t specific to repeated domestic violence, the statistic that only 1497 cases involve serious physical injuries is still included within the category of repeated domestic violence. So I still access the part of Milgram that indicates domestic violence rarely every reaches serious physical injury.

3. More support evidence—repeated domestic violence only goes physical in a minority of cases. **Williams and Houghton**:[[31]](#footnote-31)

The results of the victim survey convey the continuing potential for domestic violence after sentencing. The reports by victims on the reoffending of their partners show that 35% of them used some type of physical force during the 6-month followup period, as measured by a modiﬁed version of the physical aggression items on the Conﬂict Tactics Scale listed above (Straus, 1979, 1990). The degree and nature of the physical violence varied among the offenders, but over one-third again used some sort of violence against their previous victim.

PHYSICAL IMPACTS>PSYCHOLOGICAL IMPACTS

**Physical impacts outweigh psychological impacts:**

1. Physical impacts are more concrete since they physically occur and create a tangible impact on those affected. Psychological impacts are less tangible and unverifiable.

2. Physical impacts control the internal link to psychological impacts. Being subjected to brutal physical pain destroys the victim’s moral self-worth and any possibility for them to be psychologically relieved.

PSYCHOLOGICAL IMPACTS>PHYSICAL IMPACTS

**Psychological impacts outweigh physical impacts:**

1. Most consistent with the internal warrants of the framework—the process of valuing happiness is based on perception, meaning the subjective mental attitude of those affected by violence has the strongest link into happiness.

2. Psychological impacts control the internal link into physical impacts. Victims who are psychologically weakened lose the will to defend themselves against further physical violence, increasing the frequency and severity of physical abuse.

META-WEIGHING

**Prefer probability:**

1. Worrying about high magnitude scenarios with minimal probability wastes time on impacts that will probably never occur—causes policy paralysis and ignorance of real-world problems because time is wasted on improbable impacts.

2. High magnitude impacts don’t just have low probability—they have zero probability. Everyone knows on this topic nothing major will happen when you affirm or negate so claiming high magnitude impacts is bogus—probability comes first.

**Prefer magnitude:**

1. Empirically verified with the BP oil spill—the government ignored high magnitude scenarios in favor of high probability and got massively screwed. Magnitude comes first because we can’t afford to take chances when the risk is so great.

2. The fact that there’s evidence on the question means a minimum threshold for probability of the impact scenario has been met—we weigh magnitude from there.

**Prefer strength of link:**

1. Other impacts are heavily contested so there’s normative risk that goes both ways, but impacts chains that are conceded are far more likely to be true merely by virtue of uncontested links.

2. Strength of link weighing forces us to directly engage with arguments on the flow, which increases education because arguments actually clash.

2NR NEW RESPONSES OVERVIEW

As an overview, allow new responses in the 2NR including new evidence as a response to his arguments and as possible weighing:

A. He didn’t start the debate until the 1AR, so new weighing is totally legitimate.

B. He’s reading empirical evidence as turns—I need to be able to respond with evidence or else I’ll always lose the util debate because it’s based on empirics.

C. I can’t predict that he’s going to go all in on the NC in the 1AR so to force to read all my evidence in the 1NC would be unfair and impossible.

D. I’m not reading new disads—just responding to his arguments and bolstering my impacts—as long as there are no new independent links then there’s nothing wrong with new arguments.

E. The fact that he’s making independent parallel turns on the util debate means there’s zero abuse to reading new evidence in response.

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